

REMARKS

Applicant thanks the Examiner for the very thorough consideration given the present application. Claims 1-4, 6-15, 17 and 18 are now present in the application. Claims 1, 4, 9 and 10 are independent.

The Office Action dated September 26, 2008 has been received and carefully reviewed. Each issue raised in the Office Action is addressed below. Reconsideration and allowance are respectfully requested in view of the following remarks.

Priority Under 35 U.S.C. § 119

Applicants thank the Examiner for acknowledging Applicants' claim for foreign priority under 35 U.S.C. § 119, and receipt of the copies of the certified priority documents.

Information Disclosure Statement

Applicants have filed four Information Disclosure Statements in this application. Responsive thereto, the instant Office action has kindly provided initialed copies of three of these, including those filed October 14, 2005, September 20, 2007 and January 15, 2008, but has not returned an initialed copy of the IDS filed January 17, 2006. Applicants note that the IDS filed on January 17, 2006 is viewable in PAIR and respectfully request the form be appropriately marked as considered by the Examiner and returned to Applicants with the next Office Action.

Claim Rejections – 35 U.S.C. § 103

Claims 1-16 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over JP Pub. No. 2000-134502 to Akio in view of JP Pub. No. 06-261372 to Shigeru et al. ("Shigeru"). Applicants submit the Examiner has failed to establish a *prima facie* case of obviousness and respectfully traverse the rejection. A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

In order to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the cited references must teach or suggest each and every element in the claims. *See M.P.E.P. § 706.02(j); M.P.E.P. 2141-2144.*

While not conceding the appropriateness of the Examiner's rejection, but merely to advance prosecution of the instant application, Applicants respectfully submit that independent claims 1 and 9 have been amended to recite a combination of elements in a communication system and method wherein the terminal device acquires device-use-information indicating the use status of an external device from the center device via the communication means and judges, based on the acquired device-use information, whether or not at least either the generation or transmission of remote-operation data or both are performed. Claims 4 and 10 have been amended to recite a combination of elements in a communication system and method wherein the center device judges, based on the device-use information indicating the use-status of an external device, whether or not remote operation is performed. These amendments are based upon features originally present in claim 5. Applicants respectfully submit that this combination of elements as set forth in independent claims 1, 4, 9 and 10 is not disclosed or made obvious by the prior art of record, including Akio and Shigeru.

The Examiner states that Akio shows a terminal device 11 comprising communication means shown in Figure 1 and discussed in paragraph [0012], wireless bi-directional communication between the audio visual content receiving device 11 and the audio visual content transmitting device 16, and control means shown in Figure 1 and discussed in the Abstract and at 20, the control means including remote operation data producing means discussed in paragraphs [0016] and [0017] and the Abstract, remote operation transmitting means in Figure 1, paragraph [0017]. The Examiner indicates Akio teaches an AB selection button 13 on the audio video receiver 11 used to select a desired AV device 19, but admits that Akio does not teach identification information acquiring means for acquiring from the center device 16 identification information for identifying the external device. According to the Office Action, Shigeru teaches receipt of identification information to identify each of the external devices 2-6 from the AV distribution means 1.

The Examiner mentions, regarding claim 5, that Akio, in paragraph [0017], teaches AV transmitter 16 analyzing select information for comparison with stored ID and "activity", in the Office Action at the bottom of page 7.

To the contrary, Applicants respectfully submit that in Akio the selection is made merely by the use of an AB selector, therefore there is no communication as to device options, device availability and device use, nor is there need for the communication of such information. Likewise, in Shigeru we note that there does not appear to be any need for acquisition or transmission device use and/or status information since all of the devices are only connectable to one receiver 7/8. And contrary to the remarks made regarding claim 5, features of which have now been incorporated into the independent claims, the AV transmitter 16, as described in Akio in paragraphs [0016] and [0017], operates to compare the ID unique to the device 16 with an ID contained in a telegraphic message from the sound image device 11, analyze AV device select information and/or wireless channel information in the telegraphic message, select the AV device 19, change wireless channels and turn on the LED 18. The Office Action fails to provide any explanation for what the "activity" might be, and we decline to speculate. Nevertheless, the AV transmitter 16 does not operate to judge, based on information indicating the use-status of the AV device 19, whether or not remote operation is performed. We also note from paragraphs [0016] and [0017] that the LED 18 is turned on to indicate that the AV transmitter 16 is in use, not to indicate that the AV device 19 is in use. Shigeru merely teaches sending information signals through the remote control, not to a center device through a communication section, and therefore cannot remedy the defects of Akio discussed above.

Applicants respectfully submit that the combination of elements as set forth in independent claims 1, 4, 9 and 10 is not disclosed or made obvious by the prior art of record, including Akio and Shigeru, for the reasons explained above. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

With regard to dependent claims 2, 3, 6-8 and 11-15, 17 and 18, Applicants submit that claims 2, 3, 6-8 and 11-15, 17 and 18 depend, either directly or indirectly, from independent claims 1 and 4 which are allowable for the reasons set forth above, and therefore claims 2, 3, 6-8 and 11-15, 17 and 18 are allowable based on their dependence from claims 1 and 4. Reconsideration and allowance thereof are respectfully requested.

Conclusion

All objections and rejections raised in the Office Action having been properly traversed and addressed, it is respectfully submitted that the present application is in condition for allowance. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Notice of same is earnestly solicited.

Prompt and favorable consideration of this Amendment is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Paul T. Sewell, Registration No. 61,784, at (703) 205-8000, in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.14; particularly, extension of time fees.

Dated: December 22, 2008

Respectfully submitted,

By 

Michael R. Cammarata
Registration No.: 39,491
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant